

Exhibit D

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY
DOCKET NO. MID-L-006651-16ASL
MID-L-007336-16AS
APPELLATE DOCKET NO. _____

DWAYNE JOHNSON,) TRANSCRIPT OF
Plaintiff,) TRIAL
v.)
AMERICAN INTERNATIONAL,)
INDUSTRIES, et al.,)
Defendants.)

MARGARET R. LANGLEY LASHLEY AND)
EDWARD G. LASHLEY,) (VOLUME 1 of 2)
Plaintiffs,)
v.)
AMERICAN INTERNATIONAL INDUSTRIES,)
et al.,)
Defendants.)

Place: Middlesex Courthouse
56 Paterson Street
New Brunswick, New Jersey 08903
Date: Wednesday, March 11, 2020
9:14 a.m.
(Volume 1 of 2)
(Pages 1 - 200)

BEFORE:
HON. ANA C. VISCOMI, J.S.C. and JURY

TRANSCRIPT ORDERED BY:
JOSEPH MANDIA, ESQ.
(Simon Greenstone Panatier)
5 Penn Plaza
Suite 2308
New York, New York 10001

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 JOSEPH MANDIA, ESQ.</p> <p>3 SIMON GREENSTONE PANATIER</p> <p>4 5 Penn Plaza</p> <p>5 Suite 2308</p> <p>6 New York, New York 10001</p> <p>7 -and-</p> <p>8 STUART PURDY, ESQ.</p> <p>9 SIMON GREENSTONE PANATIER</p> <p>10 3780 Kilroy Airport Way</p> <p>11 Suite 540</p> <p>12 Long Beach, California 90806</p> <p>13 Attorneys for Plaintiffs,</p> <p>14 Dwayne Johnson, and</p> <p>15 Margaret R. Langley Lashley and</p> <p>16 Edward G. Lashley</p> <p>17</p> <p>18 ROBERT E. THACKSTON, ESQ.</p> <p>19 LATHROP GPM LLP</p> <p>20 2101 Cedar Springs Road</p> <p>21 Suite 1400</p> <p>22 Dallas, Texas 75201</p> <p>23 -and-</p> <p>24 ROY F. VIOLA, JR., ESQ.</p> <p>25 HAWKINS, PARNELL & YOUNG, LLP</p> <p>600 Lexington Avenue</p> <p>8th Floor</p> <p>New York, New York 10022</p> <p>Attorneys for Defendant,</p> <p>American International Industries</p> <p>ANDREA F. NOCKS, CCR, CRR</p> <p>PRIORITY ONE</p> <p>290 West Mount Pleasant Avenue</p> <p>Livingston, New Jersey 07039</p> <p>(718) 983-1234</p> <p>E-mail: p1steno@veritext.com</p> <p>Job No. NJ4011555</p>	<p style="text-align: right;">Page 4</p> <p>1 E X H I B I T S</p> <p>2 MARKED FOR IDENTIFICATION</p> <p>3 NO. DESCRIPTION PAGE</p> <p>4 Plaintiffs' Exhibit Stimuli to the Revision 121</p> <p>5 1070 Process Modernization of</p> <p>6 Asbestos Testing by U.S.P.</p> <p>7 Plaintiff's Exhibit Executive Summary of the 148</p> <p>8 1076 Interagency Working Group on</p> <p>9 Asbestos in Consumer</p> <p>10 Products</p> <p>11 Plaintiffs' Exhibit J4-1 Test method 129</p> <p>12 1471</p> <p>13 Plaintiffs' Exhibit Reliance materials 155</p> <p>14 1729</p> <p>15</p> <p>16 E X H I B I T S</p> <p>17 MARKED INTO EVIDENCE</p> <p>18 NO. DESCRIPTION PAGE</p> <p>19 Court Exhibit C-1 Juror question 166</p> <p>20 Court Exhibit C-2 Juror question 167</p> <p>21 Court Exhibit C-3 Juror question 168</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2</p> <p>3 DIRECT CROSS REDIRECT RECROSS</p> <p>4 WITNESSES</p> <p>5 FOR THE PLAINTIFF:</p> <p>6 STEVEN COMPTON</p> <p>7 BY MR. THACKSTON 6</p> <p>8 BY MR. PURDY 112</p> <p>9</p> <p>10 JACQUELINE MOLINE</p> <p>11 BY MR. THACKSTON 160</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 COURT OFFICER: Jury entering.</p> <p>2 (Jury enters.)</p> <p>3 THE COURT: Good morning, everyone. Please</p> <p>4 be seated. Make sure cell phones are turned off.</p> <p>5 How about we ask Dr. Compton to return.</p> <p>6 Good morning, Dr. Compton.</p> <p>7 Today is March 11, 2020. This is the</p> <p>8 continued trial in the matter of Margaret and Edward</p> <p>9 Lashley versus American International Industries and</p> <p>10 Dwayne Johnson versus American International</p> <p>11 Industries.</p> <p>12 Can I have appearances, please, for the</p> <p>13 plaintiffs.</p> <p>14 MR. PURDY: Yes. Good morning again, your</p> <p>15 Honor. Stuart Purdy for the plaintiffs.</p> <p>16 MR. MANDIA: Good morning, your Honor.</p> <p>17 Joseph Mandia for the plaintiffs.</p> <p>18 THE COURT: Thank you.</p> <p>19 For the defendants.</p> <p>20 MR. THACKSTON: Good morning, your Honor.</p> <p>21 Robert Thackston and Roy Viola.</p> <p>22 THE COURT: Thank you very much.</p> <p>23 So, members of the jury, as you may recall,</p> <p>24 we are in the plaintiffs' case and we're now in</p> <p>25 cross-examination of the plaintiffs' expert witness,</p>

<p style="text-align: right;">Page 194</p> <p>1 Q And they --</p> <p>2 A If they have both those types of data.</p> <p>3 Q And some of the registries have occupational</p> <p>4 codes; they have a number for, say, 53 different</p> <p>5 occupations, and they use the occupational codes and</p> <p>6 compare the cancer instances to the different</p> <p>7 occupations, right?</p> <p>8 A Right. And then some will be more sophisticated</p> <p>9 in terms of actual exposures rather than a job code</p> <p>10 because a job code may not be, tell the whole story.</p> <p>11 Q Generally speaking, the epidemiological</p> <p>12 studies that have considered whether there are</p> <p>13 occupations that have an increased risk of mesothelioma</p> <p>14 have identified certain occupations that consistently</p> <p>15 identified certain occupations that have an increased</p> <p>16 risk of mesothelioma, right?</p> <p>17 A In general, yes, particularly the construction</p> <p>18 trades and the shipbuilding industry.</p> <p>19 Q Insulators, pipefitters, plumbers, those are</p> <p>20 ones that have been shown to have a statistically</p> <p>21 significant increased risk of mesothelioma, right?</p> <p>22 A Correct.</p> <p>23 Q And there's never been an epidemiological</p> <p>24 study that has concluded that hairdressers or barbers</p> <p>25 have a statistically significant increased risk of</p>	<p style="text-align: right;">Page 196</p> <p>1 A He's a Ph.D. microscopist who's within the</p> <p>2 department of pathology.</p> <p>3 Q He's not a medical doctor?</p> <p>4 A Correct.</p> <p>5 Q This is titled, Mesothelioma Associated With</p> <p>6 the Use of Cosmetic Talc, right?</p> <p>7 A Correct.</p> <p>8 Q And I think you said on direct, and correct</p> <p>9 me if I paraphrase it wrong, but there wasn't any kind</p> <p>10 of epidemiological study on cosmetic talc and</p> <p>11 mesothelioma, so this, you felt this was going to be</p> <p>12 the first one, right?</p> <p>13 A What I said is I was unaware of any study on</p> <p>14 cosmetic talc end users, apart from a couple of case</p> <p>15 reports, one of -- some of which I showed on that slide</p> <p>16 earlier. So this was the first case series, meaning</p> <p>17 multiple cases that had been compiled of folks who used</p> <p>18 cosmetic talc.</p> <p>19 Q And you compared it to the study, you have 33</p> <p>20 people and you compared it to a study done by</p> <p>21 Dr. Wagner, W-a-g-n-e-r, who studied 33 people who had</p> <p>22 mesothelioma in South Africa?</p> <p>23 A I didn't compare it. I used it as a number</p> <p>24 because that had been the number that was used when</p> <p>25 they had that first study that showed an association</p>
<p style="text-align: right;">Page 195</p> <p>1 mesothelioma, has there?</p> <p>2 A Not that I recall specifically, no.</p> <p>3 Q And are you familiar with the epidemiology,</p> <p>4 the epidemiological study of cancer in hairdressers</p> <p>5 that, an IARC study, that looked at whether their</p> <p>6 cancer is related to the colorings used by a</p> <p>7 hairdresser?</p> <p>8 A You'd have to show it to me. I'm not sure.</p> <p>9 Q Let me ask you about your paper. Do you need</p> <p>10 a copy of your paper?</p> <p>11 A If you're going to ask me specific questions, yes.</p> <p>12 Q Do you recognize this as the paper that you</p> <p>13 wrote along with the other folks that are on --</p> <p>14 A Yes.</p> <p>15 Q And I won't pronounce their names because</p> <p>16 they're hard to pronounce, but you're welcome to read</p> <p>17 them out if you'd like.</p> <p>18 A I'd be happy to read them out. It's Kristin</p> <p>19 Bevilacqua, Maya Alexandri and Ronald Gordon.</p> <p>20 Q So Dr. Gordon is the same Dr. Gordon who was</p> <p>21 one of the authors of the Gordon Fitzgerald Millette</p> <p>22 paper?</p> <p>23 A Correct.</p> <p>24 Q And he's a Ph.D. pathologist at Mount Sinai,</p> <p>25 right?</p>	<p style="text-align: right;">Page 197</p> <p>1 between asbestos and mesothelioma, and so I picked 33</p> <p>2 for that purpose. I wasn't comparing the 33 in my</p> <p>3 paper to the 33 in Dr. Wagner's paper.</p> <p>4 Q They were studying people who were diagnosed</p> <p>5 with mesothelioma, and one of the authors on that study</p> <p>6 was one of the physicians who had, whose patients had</p> <p>7 died from mesothelioma, right?</p> <p>8 A To be honest, I don't know the role. I think</p> <p>9 Wagner is a pathologist. I don't know who the others</p> <p>10 that had treated the patients were. I wasn't around in</p> <p>11 1960, so I don't know.</p> <p>12 Q Me either. Barely.</p> <p>13 So this paper, though, is not, does not</p> <p>14 relate to any patient that you've ever treated, no one</p> <p>15 with whom you've had a physician/patient relationship,</p> <p>16 right?</p> <p>17 A No. These were all individuals -- some of the</p> <p>18 individuals I had the opportunity to interview, but I</p> <p>19 was not their treating physician.</p> <p>20 Q So these are all cases that came to you by</p> <p>21 way of your legal consultations, right?</p> <p>22 A Correct.</p> <p>23 Q And it says that the case histories that you</p> <p>24 have here -- by the way, the premise of your paper is</p> <p>25 that these are cases of mesothelioma, either pleural or</p>

<p style="text-align: right;">Page 198</p> <p>1 peritoneal, that were the only known exposure is</p> <p>2 cosmetic talc, right?</p> <p>3 A As best we could ascertain, that that was their</p> <p>4 only exposure. They did not have any other exposure</p> <p>5 that I was able to glean from the materials I had been</p> <p>6 provided.</p> <p>7 Q But now let's talk about that a little bit.</p> <p>8 Materials, you mention here, "Data gathered</p> <p>9 for 33 patients was gleaned from individuals' medical</p> <p>10 records and sworn testimony, deposition transcripts of</p> <p>11 individuals." Right?</p> <p>12 A Correct.</p> <p>13 Q Now, the only medical records you would have</p> <p>14 had would have been medical records sent to you</p> <p>15 generally by the firms that retained you, right?</p> <p>16 A Yes, that are retained through a medical record</p> <p>17 service that in general, or sometimes, I don't know how</p> <p>18 the medical records are all obtained. I know some of</p> <p>19 them have the medical record service cover letters, so</p> <p>20 they're obtained and then they're sent to me.</p> <p>21 Q Doctors seem to have some centralized access</p> <p>22 to medical records now, they type it up when you go in</p> <p>23 to see them.</p> <p>24 You didn't have access to anyone's medical</p> <p>25 files other than something that was sent to you in the</p>	<p style="text-align: right;">Page 200</p> <p>1 CERTIFICATION</p> <p>2</p> <p>3 I, ANDREA F. NOCKS, C.S.R., License Number</p> <p>4 30XI00157300, a Certified Court Reporter, in and for the</p> <p>5 State of New Jersey, do hereby certify the foregoing to</p> <p>6 be prepared in full compliance with the current</p> <p>7 Transcript Format for Judicial Proceedings and is a true</p> <p>8 and accurate non-compressed transcript to the best of my</p> <p>9 knowledge and ability.</p> <p>10</p> <p>11 <i>Andrea Nocks CCR CRR</i> MARCH 11, 2020</p> <p>12 ANDREA F. NOCKS</p> <p>13 CERTIFIED COURT REPORTER</p> <p>14 MIDDLESEX COUNTY COURTHOUSE</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 199</p> <p>1 context of litigation?</p> <p>2 A First of all, there's no centralized medical</p> <p>3 center like that in this country. Everyone's hospital</p> <p>4 has a proprietary system. And unless you have direct</p> <p>5 patient contact with an individual, it's -- you don't</p> <p>6 look up another patient, and I certainly would not have</p> <p>7 access to another hospital's electronic medical</p> <p>8 records. These were all sent to me by plaintiffs'</p> <p>9 counsel.</p> <p>10 Q And it says, "Cases reviewed by occupational</p> <p>11 physician with experience evaluating asbestos exposure</p> <p>12 in thousands of patients." And that's you, right?</p> <p>13 A Correct.</p> <p>14 Q And then, "Exposure data obtained from sworn</p> <p>15 testimony about the cases, which included questioning</p> <p>16 regarding all sources of asbestos exposure. This</p> <p>17 included family, occupational histories, parents and</p> <p>18 anyone cohabitating with the patient were all cases to</p> <p>19 assess potential asbestos exposure, hobbies," et</p> <p>20 cetera, right?</p> <p>21 A Correct.</p> <p>22 (Continuation of the day's proceedings in</p> <p>23 Volume 2.)</p> <p>24</p> <p>25</p>	

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY
DOCKET NO. MID-L-006651-16ASL
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APPELLATE DOCKET NO. _____

DWAYNE JOHNSON,) TRANSCRIPT OF
Plaintiff,) TRIAL
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AMERICAN INTERNATIONAL,)
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MARGARET R. LANGLEY LASHLEY AND)
EDWARD G. LASHLEY,) (VOLUME 2 of 2)
Plaintiffs,)
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Place: Middlesex Courthouse
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Date: Wednesday, March 11, 2020
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(Pages 201 - 238)

BEFORE:
HON. ANA C. VISCOMI, J.S.C. and JURY

TRANSCRIPT ORDERED BY:
JOSEPH MANDIA, ESQ.
(Simon Greenstone Panatier)
5 Penn Plaza
Suite 2308
New York, New York 10001

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APPEARANCES:
JOSEPH MANDIA, ESQ.
SIMON GREENSTONE PANATIER
5 Penn Plaza
Suite 2308
New York, New York 10001
-and-
STUART PURDY, ESQ.
SIMON GREENSTONE PANATIER
3780 Kilroy Airport Way
Suite 540
Long Beach, California 90806
Attorneys for Plaintiffs,
Dwayne Johnson, and
Margaret R. Langley Lashley and
Edward G. Lashley

ROBERT E. THACKSTON, ESQ.
LATHROP GPM LLP
2101 Cedar Springs Road
Suite 1400
Dallas, Texas 75201
-and-
ROY F. VIOLA, JR., ESQ.
HAWKINS, PARNELL & YOUNG, LLP
600 Lexington Avenue
8th Floor
New York, New York 10022
Attorneys for Defendant,
American International Industries

ANDREA F. NOCKS, CCR, CRR
PRIORITY ONE
290 West Mount Pleasant Avenue
Livingston, New Jersey 07039
(718) 983-1234
E-mail: p1steno@veritext.com

Job No. NJ4011555

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(Continuation from Volume 1.)
BY MR. THACKSTON:
Q Now, because you got these cases in the
context of litigation, presumably other lawyers would
have them, defense lawyers who were involved in the
case who represented companies who were sued, right?
As far as you know, all the information you have was
information that was shared among all those in the
case?
A I would assume so.
Q And you've identified, both by case number
and in your deposition, you take the position that
you're not going to tell anybody what cases they are
because that's confidential, right?
A It's standard medical practice not to identify
individuals by names, and in the same way that, I
believe we discussed on Monday we don't discuss company
names. But certainly I have never in my life, and I
read thousands of articles in the medical literature,
have never seen anyone's name ever put in a paper.
Sometimes it'll be initials. But it has never been
that an individual's name is put into a medical article
that's published in the medical literature unless
perhaps it was -- the sole case might be in the guy who
discovered that H. Pylori caused stomach cancer and he

<p style="text-align: right;">Page 206</p> <p>1 wrote about it because he gave it to himself.</p> <p>2 That's, I think, the only time that the name</p> <p>3 of the person was put in an article that I've read in</p> <p>4 thousands of articles.</p> <p>5 Q Okay. Well, let me rephrase my question.</p> <p>6 Other than putting someone's name in the</p> <p>7 article, no -- you've taken the position that no</p> <p>8 identifying information can be shared with anyone about</p> <p>9 who these people were; for example, for case number</p> <p>10 one, you haven't made available any information that</p> <p>11 would allow only the people who were involved in the</p> <p>12 case to understand who case one may have been, right?</p> <p>13 A For the purposes of this paper, no. We</p> <p>14 de-identified it, as is standard medical practice and</p> <p>15 is standard practice when we publish the paper, so that</p> <p>16 the medical community would not have access to the</p> <p>17 names of these individuals.</p> <p>18 Q Well, and I guess the significance of that is</p> <p>19 somebody who picks up this paper and reads it and sees</p> <p>20 that the allegation is that the only known exposure to</p> <p>21 asbestos is cosmetic talc, there's no way for anybody</p> <p>22 to look behind that conclusion if they don't have any</p> <p>23 idea who the people are, right?</p> <p>24 A The medical literature is filled with articles</p> <p>25 where people state their opinions and state their best</p>	<p style="text-align: right;">Page 208</p> <p>1 and stop there, but to really understand how someone</p> <p>2 could have an exposure and go beyond just saying what</p> <p>3 do you do or who do you live with, but ask about other</p> <p>4 things. And I think I stated that many times in this</p> <p>5 article and I certainly use that as my conclusion.</p> <p>6 Q Well, as you know from Dr. Compton's testing</p> <p>7 of the Montana talc samples, all cosmetic talc didn't</p> <p>8 necessarily have any asbestos in it, right?</p> <p>9 A From Dr. Compton's testing of the three finished</p> <p>10 bottles, all three of the finished product that he</p> <p>11 tested that I saw had asbestos in it. If you're asking</p> <p>12 me from the samples that were provided to him from the</p> <p>13 mine, not all of them had asbestos in it, that is</p> <p>14 correct. But the finished products all did.</p> <p>15 Q The 30-year old finished product?</p> <p>16 A I don't know the number of years.</p> <p>17 Q And you say that you confirm, based on your</p> <p>18 knowledge, that the people who you're reporting on had</p> <p>19 no other exposure to asbestos, right?</p> <p>20 A As best as I could ascertain.</p> <p>21 Q And one of the -- one of the articles that</p> <p>22 you cited talks about the fact that the Italian</p> <p>23 registry, the Italian registry that keeps up with</p> <p>24 different cancers, mentioned that it had a comment</p> <p>25 about some people that had mesothelioma who were</p>
<p style="text-align: right;">Page 207</p> <p>1 information. In the same way that we talked about a</p> <p>2 paper where you were quoting me lines earlier and it</p> <p>3 was someone's opinion that was being quoted that I</p> <p>4 might not agree with that would occur in a paper.</p> <p>5 That's standard in medical papers. You don't</p> <p>6 go back and say here's the people, you can go evaluate</p> <p>7 them. That's not done.</p> <p>8 Q Well, in this particular case, now you</p> <p>9 believe that the paper can be cited as evidence that</p> <p>10 there's asbestos in cosmetic talc and that causes</p> <p>11 mesothelioma, right?</p> <p>12 A The point of my paper is to show that in</p> <p>13 individuals for whom a comprehensive exposure history</p> <p>14 was taken that show that they had exposure to cosmetic</p> <p>15 talc, that we can think about the fact that cosmetic</p> <p>16 talc contains asbestos.</p> <p>17 And as has been shown by studies of cosmetic</p> <p>18 talc and it's published in the literature and that</p> <p>19 because we know that there is asbestos present in</p> <p>20 cosmetic talc, we can think about that as a source of</p> <p>21 mesothelioma. And one of the goals --</p> <p>22 Q Sorry. I didn't mean to interrupt.</p> <p>23 A -- is truly to emphasize that one must take a</p> <p>24 comprehensive history and not just ask someone's job</p> <p>25 and not just ask if their spouse worked with asbestos</p>	<p style="text-align: right;">Page 209</p> <p>1 hairdressers, right?</p> <p>2 A Correct.</p> <p>3 Q And it said we suspect that that was from</p> <p>4 asbestos in hair dryers, right?</p> <p>5 A That's what they had said, it was a possibility.</p> <p>6 And it was also clear they never made any mention of</p> <p>7 asking about cosmetic talc.</p> <p>8 Q This was published what, in the last three or</p> <p>9 four years?</p> <p>10 A I'm sorry, which was?</p> <p>11 Q The Italian registry with that comment.</p> <p>12 A You're giving me more credit than I'm due, sir. I</p> <p>13 don't remember the year that they published that</p> <p>14 particular paper. That's reference Number 51, that was</p> <p>15 published eight years ago.</p> <p>16 Q Were you aware that there was asbestos in</p> <p>17 hair dryers?</p> <p>18 A In certain hair dryers, I have heard that it was</p> <p>19 in some hair dryers. I don't know which ones and don't</p> <p>20 know if they were in Italian hair dryers.</p> <p>21 Q You don't know what? I'm sorry.</p> <p>22 A I don't know if they were in Italian hair dryers.</p> <p>23 Q And when you were asked about asbestos in</p> <p>24 hair dryers, you said you don't think all hairdressers</p> <p>25 necessarily had hair dryers, did you?</p>

<p style="text-align: right;">Page 210</p> <p>1 A Not all of them might have had handheld. They may</p> <p>2 have had the sit in the chair with the curlers in your</p> <p>3 hair kind of hair dryers that you see from the 1950s.</p> <p>4 Q Do you know whether both contained asbestos</p> <p>5 in the 1970s and 1980s?</p> <p>6 A I don't know at what point there was a conversion</p> <p>7 to the handheld.</p> <p>8 Q I've handed you a case report entitled,</p> <p>9 Peritoneal Mesothelioma From Asbestos in Hair Dryers,</p> <p>10 James Dahlgren, International Journal of Occupational</p> <p>11 and Environmental Health, 2015. Is that an article</p> <p>12 you're familiar with?</p> <p>13 A I don't think I've ever seen this. This is</p> <p>14 actually -- no, I haven't seen this.</p> <p>15 Q I've handed you a document titled, United</p> <p>16 States Consumer Product Safety Commission New</p> <p>17 Information on Hair Dryers CSP -- CPSC Hot-Line Swamped</p> <p>18 By Calls, release date April 17, 1979.</p> <p>19 Were you familiar with any of the details of</p> <p>20 the Consumer Product Safety Commission of recall of</p> <p>21 asbestos-containing hair dryers in the late 1970s?</p> <p>22 A No.</p> <p>23 Q I've showed you an article titled, Asbestos</p> <p>24 Emissions From Handheld Hair Dryers by William</p> <p>25 Hallenbeck of the School of Public Health, University</p>	<p style="text-align: right;">Page 212</p> <p>1 Q And is the document I just showed you that</p> <p>2 testimony, written testimony by Jacqueline Moline on</p> <p>3 Northwell Health stationery?</p> <p>4 A Yes.</p> <p>5 Q And it says, "Tuesday, before the Committee</p> <p>6 on Oversight and Reform Subcommittee on Economic and</p> <p>7 Consumer Policy, United States House of</p> <p>8 Representatives, examining" -- I'm sorry -- "examining</p> <p>9 carcinogens in talc and best methods for asbestos</p> <p>10 detection." Right?</p> <p>11 A That was the title of the session. I didn't come</p> <p>12 up with that session title. That wasn't the title</p> <p>13 of -- we didn't have titles for our talk. That was the</p> <p>14 title of what the committee had decided.</p> <p>15 Q Thank you.</p> <p>16 So your testimony begins on the next page,</p> <p>17 "Good afternoon, Chairman," et cetera, right?</p> <p>18 A Good luck with that one. It's actually much</p> <p>19 easier to pronounce than it is.</p> <p>20 Q Check that out. Chairman, chair --</p> <p>21 A It's Krishnamoorthi.</p> <p>22 Q It's --</p> <p>23 A Once you got it, it's easy to say. It's</p> <p>24 Krishnamoorthi.</p> <p>25 Q Well, I won't try to say that gentleman's</p>
<p style="text-align: right;">Page 211</p> <p>1 of Illinois Medical Center, from Environmental</p> <p>2 Management, Volume 5, appears to be 1981.</p> <p>3 Are you familiar with that article?</p> <p>4 A No.</p> <p>5 Q You testified that you've done a lot of work</p> <p>6 with NIOSH?</p> <p>7 A I am -- yes. Particularly in my capacity with the</p> <p>8 World Trade Center program.</p> <p>9 Q Are you familiar with the testing of hair</p> <p>10 dryers for asbestos emission done by NIOSH and United</p> <p>11 States Consumer Product Safety Commission in 1979?</p> <p>12 A No.</p> <p>13 Q I think you also testified on direct about</p> <p>14 having given testimony before congress recently on</p> <p>15 issues relating to whether there's asbestos in cosmetic</p> <p>16 talc, correct?</p> <p>17 A I talked about two times I testified in congress;</p> <p>18 one was related to with the World Trade Center and one</p> <p>19 of them was related to cosmetic talc.</p> <p>20 Q And specifically on the issue of cosmetic</p> <p>21 talc, have you seen written testimony -- well, actually</p> <p>22 you submitted it, so I guess you have.</p> <p>23 Did you submit to this congressional panel</p> <p>24 what would be your testimony in written form?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 213</p> <p>1 name.</p> <p>2 A I saved you. I saved you that time. Since I</p> <p>3 practiced saying it since I had to say it out loud.</p> <p>4 Q I do appreciate that.</p> <p>5 You gave an example, you said, "It could be</p> <p>6 helpful to hear about an individual to better</p> <p>7 understand how cosmetic talc usage might impact one's</p> <p>8 health. Miss D was a 66-year old woman who developed</p> <p>9 shortness of breath," et cetera, right?</p> <p>10 A Correct.</p> <p>11 Q And you went on to give some information</p> <p>12 about this person that you -- this was an actual person</p> <p>13 in this case that you were consulting on, right?</p> <p>14 A Correct.</p> <p>15 Q And her name didn't start with a D, but you</p> <p>16 just --</p> <p>17 A I made that up.</p> <p>18 Q All right. So it says she worked in the</p> <p>19 textile industry, worked with polyester cotton yarn,</p> <p>20 worked for tobacco company as a packer, right?</p> <p>21 A Correct.</p> <p>22 Q Has no known exposure to asbestos in these</p> <p>23 jobs or from home construction activities, right?</p> <p>24 A Correct.</p> <p>25 Q Now, you were engaged by plaintiffs' lawyers</p>

<p style="text-align: right;">Page 214</p> <p>1 in these cases, and you wrote this article, and you</p> <p>2 testified in your deposition that you didn't tell them</p> <p>3 that you were writing this article, right?</p> <p>4 A I'm sorry, I didn't tell who?</p> <p>5 Q You didn't tell the plaintiffs' lawyers who</p> <p>6 had hired you that you were writing an article?</p> <p>7 A When I was in the process of writing the article?</p> <p>8 Q Right.</p> <p>9 A No. I did not. I did not confer with them.</p> <p>10 Q And by the way, they were there, you recall</p> <p>11 that one of the plaintiffs' lawyers was there at the</p> <p>12 hearings sitting behind you?</p> <p>13 A There were lawyers in the congressional hearing</p> <p>14 room, yes. They were aware that I was testifying.</p> <p>15 Q I mean, they were there with you when you</p> <p>16 were testifying, right?</p> <p>17 A Well, the way that sounds isn't quite right. I</p> <p>18 happened to be there and they were also there.</p> <p>19 Q Okay.</p> <p>20 A I didn't go with them there. They didn't engage</p> <p>21 me to go there. I was asked by the committee to</p> <p>22 testify.</p> <p>23 Q I understand. I'm not saying they gave you a</p> <p>24 ride or anything, I'm --</p> <p>25 A They didn't hire me to go there. I didn't get</p>	<p style="text-align: right;">Page 216</p> <p>1 that because I'm making the argument that the only way</p> <p>2 they could have gotten mesothelioma is from cosmetic</p> <p>3 talc and I'm saying they weren't exposed to anything</p> <p>4 else so I just want to double-check with you on that?</p> <p>5 You didn't do that, did you?</p> <p>6 A No. Which is why I said to the best of my ability</p> <p>7 I had no information that they had other exposures. I</p> <p>8 did not contact any after or during, during the writing</p> <p>9 of this paper.</p> <p>10 THE COURT: Let's take a five-minute break.</p> <p>11 Members of the jury, you're going to go to</p> <p>12 the jury room here on this floor. Leave your notebooks</p> <p>13 here.</p> <p>14 Remember all the instructions I've been</p> <p>15 providing to you. We'll pick you up in five.</p> <p>16 Thank you.</p> <p>17 (Jury exits.)</p> <p>18 (Recess: 3:34 p.m. to 3:47 p.m.)</p> <p>19 COURT OFFICER: Remain seated. Jury</p> <p>20 entering.</p> <p>21 (Jury enters.)</p> <p>22 THE COURT: Please be seated. Make sure cell</p> <p>23 phones are turned off.</p> <p>24 Mr. Thackston, whenever you're ready.</p> <p>25 MR. THACKSTON: Thank you, your Honor.</p>
<p style="text-align: right;">Page 215</p> <p>1 paid for my testimony.</p> <p>2 Q I understand. But there were plaintiffs'</p> <p>3 lawyers there who have retained you, who retained you</p> <p>4 in this case; somebody from the Simon Greenstone</p> <p>5 Panatier firm was there during your congressional</p> <p>6 testimony sitting right behind you, right?</p> <p>7 A Congress is open to the public. Anyone who may</p> <p>8 want to go watch how our Government is supposed to work</p> <p>9 is welcomed to sit in there and anyone is welcome to</p> <p>10 enter the Capitol. There happened to be folks</p> <p>11 including someone from Mr. Purdy's firm there. I was</p> <p>12 not aware he was going to be there.</p> <p>13 Q Doctor, again, I'm not implying an ill</p> <p>14 motive. I'm just asking whether anybody from Simon</p> <p>15 Greenstone was there.</p> <p>16 A True, true.</p> <p>17 Q They were there. They heard you testify.</p> <p>18 And this conclusion that you reach that none</p> <p>19 of the people in these cases was exposed to any other</p> <p>20 asbestos, you didn't -- before or after you published</p> <p>21 the paper you never contacted the lawyers involved who</p> <p>22 had hired you and said look, I'm going to make this</p> <p>23 assertion in this paper that they weren't exposed to</p> <p>24 anything else, do you have anything to the contrary to</p> <p>25 that, I just want to make sure that I'm right in saying</p>	<p style="text-align: right;">Page 217</p> <p>1 BY MR. THACKSTON:</p> <p>2 Q Dr. Moline, I'm handing you a report of your,</p> <p>3 that you wrote to Simon Greenstone, May 5, 2016, and</p> <p>4 we've marked out the personal identifying information</p> <p>5 but -- well, not all of it. It's a very generic name,</p> <p>6 though.</p> <p>7 Could you glance at this? This has got your</p> <p>8 letterhead on it, and I believe it's signed, yes, on</p> <p>9 page 19, you signed it, right?</p> <p>10 A Yes. I would have signed it on -- on page 19, you</p> <p>11 said? Yes.</p> <p>12 Q Page 19.</p> <p>13 Anyway, so this, I know you don't want to</p> <p>14 identify by name and we're not identifying by name,</p> <p>15 we're just identifying by the case, and you gave an</p> <p>16 example before congress and you gave an example in your</p> <p>17 written testimony, was the example that you gave in</p> <p>18 your written testimony and before congress one of the</p> <p>19 cases from your article?</p> <p>20 MR. PURDY: Objection, your Honor.</p> <p>21 THE COURT: Sidebar.</p> <p>22 (Sidebar.)</p> <p>23 MR. PURDY: The objection is --</p> <p>24 THE COURT: Louder.</p> <p>25 MR. PURDY: The objection is I think this is</p>

<p style="text-align: right;">Page 218</p> <p>1 a very not so back-door attempt to get the identities 2 of the person in the study. Mr. Thackston tried to do 3 that at deposition, was shut down. She was directed to 4 the legal staff of the hospital. To my knowledge, he 5 (inaudible). So even in old reports in isolation, but 6 to try to patch them up through the back door is in 7 violation of the paper. When she put together written 8 background information of the paper, this is 9 (inaudible). 10 THE COURT: You had access to the unredacted? 11 MR. THACKSTON: Yes. 12 THE COURT: So you know the identity of this 13 person? 14 MR. THACKSTON: Yes. It's a case we're 15 involved in. We're the defendant. 16 THE COURT: So how, tell me the purpose of 17 what you're seeking to do now. 18 MR. THACKSTON: The purpose, your Honor, 19 is that her testimony is that these are litigation 20 cases so everything she has, I have. It's all public. 21 I don't want anything that's not public information and 22 I'm not trying to identify, why would I want to 23 identify the person? 24 THE COURT: Didn't that question you just 25 asked seek to identify the person?</p>	<p style="text-align: right;">Page 220</p> <p>1 I have no issue with you cross-examining 2 individually with regard to all of the different 3 reports that you have or that she may have referenced 4 in that paper that she co-authored, but seeking to 5 identify is inappropriate and so I'm not going to 6 permit that. 7 MR. THACKSTON: I'm not going to identify the 8 person at all. 9 THE COURT: No, but that question would seek 10 to identify to you, and that I'm not going to permit. 11 I don't have any issue with individual questions, but 12 that question I'm not going to allow. 13 MR. THACKSTON: Well, I'm going to try -- I'm 14 not exactly sure what I'm allowed to do, but I'll try 15 my best to -- 16 THE COURT: Well, hold on. What I'm saying 17 is I have no issue with you cross-examining with regard 18 to any report that you have, any person that's 19 mentioned by type or case of description in her study, 20 in her published paper or the testimony she gave to 21 congress. 22 But you're asking Dr. Moline to testify as to 23 whether this person is that person that you referred 24 to, that I will not permit because that is seeking the 25 identification of who that person may be to you, and</p>
<p style="text-align: right;">Page 219</p> <p>1 MR. THACKSTON: Not the person, but the case. 2 We can call it case B, right? It's not a matter of -- 3 THE COURT: You mean you want to know whether 4 this is Miss D that she testified about? 5 MR. THACKSTON: Yes. 6 THE COURT: Well, then that would be 7 identifying the person to you. 8 MR. THACKSTON: Exactly. Well, she should 9 identify the person to me. 10 THE COURT: Why? 11 MR. THACKSTON: Well, because she made a 12 representation in the public literature that there's no 13 other exposure to asbestos, right? Well, I'm in the 14 case and I know that not to be true. And I'm not 15 trying to malign her about it, but she's -- her 16 protocol didn't involve trying to get any other 17 information and whether there is information from 18 public sources that (inaudible). I should be entitled 19 to cross-examine her on that. But otherwise, it's 20 completely (inaudible). I'm not saying she did 21 anything wrong. I'm just saying based on your 22 methodology, you didn't know this woman has a sworn 23 complaint saying she was exposed to thermal insulation 24 at her workplace. 25 THE COURT: Thank you.</p>	<p style="text-align: right;">Page 221</p> <p>1 that I will not permit. It's inappropriate. It's 2 improper. 3 (Sidebar ends.) 4 THE COURT: So the objection to that question 5 is sustained. 6 BY MR. THACKSTON: 7 Q Dr. Moline, you gave the example, and I don't 8 want anybody's name, I don't want you to identify 9 anybody, when you wrote your testimony for congress, 10 did you take portions directly from a report for a case 11 you're involved in? 12 A I don't believe I took anything verbatim. I may 13 have looked to see an illustrative case and I wouldn't 14 have remembered all the facts of the medical course 15 which I think was described, nor the exposure scenario, 16 so I would have had to refer to something. 17 Q You would have -- you would have said where 18 the person worked, right, what their job was? 19 A I would have said the category. I wouldn't have 20 said what company. 21 Q I mean, worked for a textile mill, tobacco 22 company; in fact, the example you give here in the 23 testimony, you say "she worked in a textile industry 24 working with polyester and cotton yarns, also worked 25 for tobacco company as a packer." Right?</p>

<p style="text-align: right;">Page 222</p> <p>1 A Correct.</p> <p>2 Q And you would have written a report for</p> <p>3 someone in her case making those kinds of statements,</p> <p>4 in your report you would also say what her jobs were,</p> <p>5 right?</p> <p>6 A If I had written a report on her, yes.</p> <p>7 Q And you wouldn't know if -- in another</p> <p>8 context, outside of the particular lawsuit where they</p> <p>9 were discussing the claims and questions were asked,</p> <p>10 you wouldn't know whether she filed another claim or</p> <p>11 someone on her behalf filed another claim in another</p> <p>12 context saying she was exposed to asbestos on her job?</p> <p>13 You just wouldn't have that information, would you?</p> <p>14 A If she had made -- are you saying like a workers'</p> <p>15 compensation claim?</p> <p>16 Q Yes.</p> <p>17 A I mean, typically I'm provided with all that kind</p> <p>18 of information or an individual is asked about that</p> <p>19 during their deposition, where they're asked if they've</p> <p>20 ever filed any type of lawsuit or filed a workers'</p> <p>21 compensation claim. So I might not have had all the</p> <p>22 documents, but I would have had some information.</p> <p>23 Q Would that be relevant if somebody had a</p> <p>24 worker's comp claim where they were saying they were</p> <p>25 exposed to asbestos on-the-job?</p>	<p style="text-align: right;">Page 224</p> <p>1 wasn't saying anything else. I just wanted to make</p> <p>2 sure if it went further, there was someone's name here.</p> <p>3 Q I understand. The fact that there is a</p> <p>4 lawsuit is public record, right? I mean, this person's</p> <p>5 lawsuit is a public record. And at some point you will</p> <p>6 give a deposition in that case, as far as you know,</p> <p>7 right?</p> <p>8 A Depends on the state, and it could be, yes.</p> <p>9 Q Okay. And I just want you to look at this</p> <p>10 and see, you recognize the type of document that it is,</p> <p>11 North Carolina Industrial Commission, and I just want</p> <p>12 you to read what the next line says?</p> <p>13 A Where am I looking?</p> <p>14 Q It says, "Claim by employee."</p> <p>15 A Okay.</p> <p>16 Q "Representative or dependent."</p> <p>17 A Okay.</p> <p>18 Q "For benefits for lung disease, including</p> <p>19 asbestosis, silicosis and byssinosis."</p> <p>20 A Okay.</p> <p>21 Q "The use of this form is required under the</p> <p>22 provisions of the Workers' Compensation Act."</p> <p>23 A Okay.</p> <p>24 Q Right?</p> <p>25 Employer, and I won't say the name of the</p>
<p style="text-align: right;">Page 223</p> <p>1 A If they said that they were exposed and they had</p> <p>2 exposure, sure.</p> <p>3 Q So I'd ask you to look at page -- this is</p> <p>4 from the North Carolina Industrial Commission, and down</p> <p>5 at the bottom left-hand corner you see NCIC, July 24,</p> <p>6 2019, 1 of 25 pages. If you look at page 13 --</p> <p>7 A This is not fully redacted. The name is</p> <p>8 throughout this document.</p> <p>9 Q The name what?</p> <p>10 A The name of the individual is on many pages here.</p> <p>11 It's not fully redacted.</p> <p>12 Q Well, it's not going to be seen by anybody</p> <p>13 other than --</p> <p>14 A Okay.</p> <p>15 Q -- counsel.</p> <p>16 A I see an individual's name here. I just wanted to</p> <p>17 bring that to your attention.</p> <p>18 Q I guess you can see through it.</p> <p>19 A No. No. I just turned and I saw someone's name</p> <p>20 on page 12, so I just was making sure you knew that. I</p> <p>21 didn't know who would see it.</p> <p>22 Q You're the retained expert in this case.</p> <p>23 They're the law firm in this case. The judge isn't</p> <p>24 going to give it to anybody else --</p> <p>25 A Sir, I was just saying the name was there. I</p>	<p style="text-align: right;">Page 225</p> <p>1 employer out loud, and it has dates of employment?</p> <p>2 MR. PURDY: Mr. Thackston, can I ask what</p> <p>3 page you're on?</p> <p>4 MR. THACKSTON: Page 13.</p> <p>5 A Okay.</p> <p>6 Q And then on the next page it has employment</p> <p>7 history and dates, and it says, "If you were exposed to</p> <p>8 the listed substances while working for this employer.</p> <p>9 Describe in detail the exposures employee was exposed</p> <p>10 to the hazards of asbestos-containing products while</p> <p>11 employed by this employer."</p> <p>12 That's on page 14 of 25 right in the middle</p> <p>13 of the page. You see that?</p> <p>14 A I don't know where you're pointing to.</p> <p>15 MR. THACKSTON: Your Honor, may I publish?</p> <p>16 A In the bottom half?</p> <p>17 Q Right in the middle.</p> <p>18 THE COURT: Yes. Go right ahead.</p> <p>19 BY MR. THACKSTON:</p> <p>20 Q Right?</p> <p>21 "Employee was exposed to the hazards of</p> <p>22 asbestos-containing product while employed by this</p> <p>23 employer." Right?</p> <p>24 A Yes.</p> <p>25 Q So if this is the same person who was your</p>

<p style="text-align: right;">Page 226</p> <p>1 example before congress, it appears that they, at 2 least, have made a claim that they were exposed to 3 asbestos in some form other than just in using cosmetic 4 talc personally and as a hairdresser. 5 Would you agree? 6 MR. PURDY: I'm going to object, your Honor. 7 THE COURT: Objection sustained. 8 BY MR. THACKSTON: 9 Q Since you put the article out have you had 10 any conversations with any of the lawyers about whether 11 your conclusions were correct with respect to the 12 alleged exposures by the plaintiffs to cosmetic talc 13 only? 14 A I haven't had any conversations with that specific 15 question raised to me. 16 Q And no one has contacted you and said look, 17 if case 6 or case 3 is our case, there's something you 18 ought to know, there's some other allegations; nobody's 19 given you that kind of information? 20 A No. 21 Q Let me get straight, why is it that you 22 couldn't -- let me back up. 23 So yesterday when you were on direct 24 examination and you were being asked questions about 25 Italian talc studies, you had various criticisms of the</p>	<p style="text-align: right;">Page 228</p> <p>1 it out there and say here, here's what I'm basing my 2 conclusion on, I'm going to be transparent, here's a 3 website, here's all the documents, case 1, case 2, case 4 3, I want everybody to know what I'm basing my 5 conclusion on that these people have meso and their 6 only known exposure was to cosmetic talc. 7 You could do that, right? 8 A Theoretically, yes. 9 Q And in your deposition you were asked 10 specifically, hey, I think I recognize this case, case 11 whatever, case number 3, the case of so and so. And 12 you refused to answer that, right? 13 A I am of the opinion that I am not identifying any 14 of the individuals in my paper by name as following 15 standard medical and research practice. 16 Q But you would agree, you don't have any 17 contact with these people from the standpoint of a 18 medical practice. You are not their physician. You 19 are only consulting in their litigation, right? 20 A They still have a right to privacy with respect to 21 the medical community and the medical literature at 22 large, and I am respecting that privacy. 23 Q I understand. 24 But you understand, you would agree that 25 people involved in their case because they represent</p>
<p style="text-align: right;">Page 227</p> <p>1 studies, right? 2 A Yes. 3 Q And one of the criticisms was that it wasn't 4 transparent, that one of the authors had gotten money 5 from Johnson & Johnson or somebody and it wasn't 6 transparent that they had had a role in some input in 7 the study, right? 8 A Right. That there was no disclosure that the 9 company had had a role in the development protocol and 10 writing of the paper. 11 Q And you think that if someone's going to put 12 out an article where they're going to say there are 13 no -- we find no mesothelioma among this group of 14 people, that they ought to make the information 15 available that they're basing that on so other medical 16 professionals or others can critique that, right? 17 A I said that they should let that information that 18 they were contacted by a company who approved the 19 protocol and was involved in the writing of the paper, 20 they should make the readers aware of that, yes. 21 Q And so in your situation, this is all 22 information that's been available to all the people 23 involved in the cases, it would be possible for you to 24 have someone redact, even someone that worked for one 25 of the firms, redact any personal information and put</p>	<p style="text-align: right;">Page 229</p> <p>1 someone who's been sued already have access to the 2 medical records, they have access to everything you 3 have access to, right, the other people involved in the 4 cases, correct? 5 A Yes. 6 Q And you would agree with me, wouldn't you, 7 that either before or after you published the paper, 8 other people who might have knowledge of those cases 9 never had an opportunity for input in whether or not 10 those people had other alleged exposures to asbestos; 11 fair? 12 A I did not consult with any attorneys in the 13 preparation of this paper. I based it on the 14 information I had, which was clearly stated in the 15 methods of this paper in terms of how I obtained the 16 data. I did not have conversations with any other 17 individuals apart from my co-authors who had access to 18 the same data I did. 19 Q And if somebody writes a letter to the editor 20 and says well, I think I recognize, I can't say for 21 sure because they won't identify the person, but if 22 that's this case, I'll call it B, then there certainly 23 were other sworn allegations of exposure in that case, 24 so the premise that there was no other exposure to 25 asbestos might not be valid; you couldn't really take</p>

<p style="text-align: right;">Page 230</p> <p>1 issue with that, could you?</p> <p>2 A Well, I could take issue with it. If they</p> <p>3 provided other information, I think -- the premise of</p> <p>4 the article is that cosmetic talc is associated with</p> <p>5 mesothelioma, and the premise is no different from</p> <p>6 someone who has more than one type of exposure to</p> <p>7 asbestos.</p> <p>8 In this particular group of 33 individuals, I</p> <p>9 was not aware of any other exposures. Even if they had</p> <p>10 additional exposures, it doesn't negate the fact that</p> <p>11 all 33 had this exposure to asbestos from the cosmetic</p> <p>12 talc.</p> <p>13 Q Well, that's assuming that the cosmetic talc</p> <p>14 had asbestos in it, right?</p> <p>15 A That is the premise of the article that there --</p> <p>16 or that is based on my understanding that there is</p> <p>17 asbestos in cosmetic talc that leads to mesothelioma.</p> <p>18 Q That statement about, the only statement</p> <p>19 about hairdressers that you cite, "Cases of</p> <p>20 mesothelioma among hairdressers characterized</p> <p>21 idiopathic" --</p> <p>22 A Where are you? You've got a lot of highlighting</p> <p>23 there.</p> <p>24 Q True.</p> <p>25 A Just --</p>	<p style="text-align: right;">Page 232</p> <p>1 that paragraph.</p> <p>2 But in answer to your question, we can assume</p> <p>3 that some of the hairdressers might have used hair</p> <p>4 dryers. The point of that paragraph was to say that no</p> <p>5 one elicited the history of exposure and asked whether</p> <p>6 they used talcum powder that was evident from either</p> <p>7 the medical records of these individuals that I</p> <p>8 reviewed nor from the published papers.</p> <p>9 That was the point of that paragraph. If you</p> <p>10 read it again with the understanding of what we were</p> <p>11 trying to convey there, that was the point I was trying</p> <p>12 to make, which is the only thing they asked about was</p> <p>13 hair dryers. They didn't consider if they used</p> <p>14 cosmetic talc in the course of their occupation. And</p> <p>15 they didn't take a full history. That was the point.</p> <p>16 Q And the point of my question was when you</p> <p>17 wrote this article did you consider that the only</p> <p>18 published study mentioning hairdressers said you should</p> <p>19 consider their use of hair dryers; did you consider</p> <p>20 that when you made the statement that the only known</p> <p>21 exposure for these ladies was cosmetic talc?</p> <p>22 A It's written in the paper that that was</p> <p>23 considered, yes.</p> <p>24 Q That hair dryers were considered as a</p> <p>25 possible exposure?</p>
<p style="text-align: right;">Page 231</p> <p>1 Q See the arrow now?</p> <p>2 A Okay.</p> <p>3 Q "Cases of mesothelioma among hairdressers</p> <p>4 characterized as idiopathic also underscore the</p> <p>5 contribution of an incomplete exposure history; the</p> <p>6 potential failure to identify the use of talcum powder</p> <p>7 exposure in their work would prevent the linking of</p> <p>8 occupational exposure to asbestos to their</p> <p>9 mesothelioma.</p> <p>10 "In our paper, there were three female</p> <p>11 hairdressers who regularly used talcum powder in their</p> <p>12 work. It was unclear from any of the histories noted</p> <p>13 in the medical records that these women were asked if</p> <p>14 they used talcum powder as part of their haircutting</p> <p>15 process."</p> <p>16 Then it says, "In a report from the National</p> <p>17 Meso Registry of Italy, staff noted a cluster of</p> <p>18 mesothelioma due to unknown exposure among</p> <p>19 hairdressers, but only examined hair dryer use as a</p> <p>20 potential exposure. There was no discussion of the</p> <p>21 occupational use of talcum powder." Right?</p> <p>22 A Correct.</p> <p>23 Q And don't we have to, can we fairly conclude</p> <p>24 that the three hairdressers here also used hair dryers?</p> <p>25 A They might have. That wasn't at all the point of</p>	<p style="text-align: right;">Page 233</p> <p>1 A It's certainly in Italy they described it in that.</p> <p>2 Yeah.</p> <p>3 Q You say here, "Like Wagner, we present 33</p> <p>4 cases, predominantly of women, who had no known</p> <p>5 exposure to asbestos other than prolonged use of talcum</p> <p>6 powder." Right?</p> <p>7 A Correct.</p> <p>8 Q Based on the Italian study that you cite,</p> <p>9 another known use would be hair dryers, right?</p> <p>10 A It's possible. We don't know what years they used</p> <p>11 it and whether they used hair dryers that had asbestos</p> <p>12 in it. We don't know all hair dryers have asbestos.</p> <p>13 Q But to your point that what you were trying</p> <p>14 to do was educate people about what to ask in a work</p> <p>15 history, it seems like that would be one of the things</p> <p>16 you would say that's what people should ask; if you're</p> <p>17 talking to a hairdresser, let's find out if they used a</p> <p>18 hair dryer and during what years and maybe compare it</p> <p>19 to the list of known hair dryers with asbestos.</p> <p>20 You don't make that suggestion, do you?</p> <p>21 A I did not in this paper.</p> <p>22 Q You said you educated yourself and reached a</p> <p>23 conclusion in 2007 that you thought cosmetic talc might</p> <p>24 be associated with mesothelioma, right?</p> <p>25 A I said I started looking at it in 2007/2008 and</p>

<p style="text-align: right;">Page 234</p> <p>1 it's continued for the past, what is it, 13 years. 2 I've certainly continued to learn more every year. 3 Q And this was published January 2020, I guess 4 you submitted it sometime at the end of 2019? 5 A It was published online in October 2019. 6 Q And your publication online in October 2019 7 was your first effort to get the word out that you 8 thought that occupational medicine doctors ought to ask 9 people about -- ask people about exposure to cosmetic 10 talc, right? 11 A This was my first paper, yes, about this 12 particular topic. I've written 70 odd other papers on 13 other topics. I do more than just this in my 14 profession. 15 Q I understand. 16 But you thought it was, that in 2007 you were 17 convinced that you thought cosmetic talc was causing 18 mesothelioma among people who were exposed to it even 19 getting haircuts. You waited 13 years to try to get 20 that word out. 21 Is that what you're telling me? 22 A Okay. I was presented with a question in 2007. I 23 began looking at it in 2007. And in order to write a 24 paper you need to accumulate enough folks, and I also 25 needed to have enough time set aside to write the</p>	<p style="text-align: right;">Page 236</p> <p>1 MR. THACKSTON: Your Honor, I don't know what 2 time you want to stop. I'm at a -- 3 THE COURT: Breaking point? 4 MR. THACKSTON: -- transition point. 5 THE COURT: About how much longer do you 6 anticipate? 7 MR. THACKSTON: I think I've only got two 8 more topics, your Honor, so maybe I can clean it up 9 tonight, do it quickly in the morning. 10 THE COURT: Dr. Moline, can you come tomorrow 11 morning? 12 THE WITNESS: Yes. 13 THE COURT: Thank you. 14 Members of the jury, we'll finish up now for 15 today. Please place your notebooks in the envelopes 16 provided. Leave them with the officer on the way out. 17 They'll be locked in my office overnight. No one has 18 access to them. 19 No discussions with regard to this case, 20 including the testimony you heard this afternoon. No 21 research of any kind whatsoever. 22 We'll see you tomorrow morning at 8:45. 23 Hopefully we can start by 9. 24 Dr. Moline, can you be here by 9? 25 THE WITNESS: Sure. I can be here by 9. I</p>
<p style="text-align: right;">Page 235</p> <p>1 paper. And there are other things that go on in one's 2 life and there are a whole bunch of papers I'd like to 3 be publishing that I don't have the time to write 4 about. 5 So it took a while. We worked on this paper 6 starting in, goodness gracious, 2017 I think we started 7 writing this paper. There was some interruptions. So 8 it takes a while to get everything together to write a 9 paper, but it also takes time to think about how you're 10 going to write a paper. 11 It isn't just when you start looking at a 12 question that you say, oh, let me write a paper. You 13 don't have enough information or enough to make it 14 meaningful. 15 Q Well, short of writing a paper and trying to 16 get it published, you didn't write a letter to FDA or 17 anyone else saying hey, I'm an occupational medicine 18 specialist, I think that cosmetic talc is causing 19 mesothelioma in people that use it at home or get 20 haircuts and I think you ought to do something about 21 it; you didn't write a letter like that to the FDA, did 22 you? 23 A I didn't write a letter to FDA. I have given 24 lectures to my colleagues about that, but I did not 25 write a letter to the FDA.</p>	<p style="text-align: right;">Page 237</p> <p>1 can get here earlier if you want. 2 THE COURT: 8:45, be ready to start at 9. 3 Okay. Thank you. 4 (Jury exits.) 5 THE COURT: Off the record. 6 (Proceedings adjourn at 4:15 p.m.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

CERTIFICATION

I, ANDREA F. NOCKS, C.S.R., License Number
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Andrea Nocks CCR CRR

ANDREA F. NOCKS MARCH 11, 2020
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